

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 2302 - SB 2387

February 21, 2022

SUMMARY OF BILL: Requires the Division of TennCare (Division) make available to all nursing facilities providers an electronic system to submit and track the status of Medicare crossover claims by October 1, 2022. Allows nursing facilities to file a written notice of appeal of a denial of a Medicare crossover claim within 60 days of the claim denial. Mandates that an administrative hearing regarding the notice of appeal be set within 30 business days of the notice, and the Division render a decision within 10 business days of the hearing.

FISCAL IMPACT:

**Increase State Expenditures – \$3,285,700/FY22-23
\$1,235,000/FY23-24 and Subsequent Years**

**Increase Federal Expenditures – \$3,285,700/FY22-23
\$1,235,000/FY23-24 and Subsequent Years**

Assumptions:

- As required by the proposed legislation, the Division would need to implement an electronic claims system. According to the Division, a competitive procurement is already underway for an electronics claims system that would satisfy the requirements of this legislation. However, the expected go-live date for the new system is May 1, 2023. In order to comply with the October 1, 2022 start date in this legislation, the Division will have to temporarily enhance the existing systems to accept electronic claims from October 2020 until May 2023. Such enhancement will become obsolete beginning in May 2023 and will not decrease the development costs associated with the new system.
- Based on an estimate from the intended awardee for the new system, the total increase in expenditures associated with this enhancement will be \$3,806,000 in FY22-23. This would be at a 50/50 federal match, meaning that \$1,903,000 ($\$3,806,000 \times 50\%$) would be in state expenditures and \$1,903,000 ($\$3,806,000 \times 50\%$) would be in federal expenditures.
- The average number of non-crossover claims TennCare receives is 13,761,919, of which 240,281 are denied. There is an average of 1,200,000 crossover claims filed with the Division every year. Of those claims, 873,000 claims are denied mostly due to billing errors and untimely filings. Therefore, crossover claims are denied at a higher rate of 72.8 percent ($874,000 / 1,200,000$) compared to non-crossover claims with a denial rate of 1.7 percent ($240,281 / 13,761,919$).

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- The average rate of appeals for similar providers with appeal rights is 20 percent. It is expected that the appeals rate created in the proposed legislation will be half of this, or 10 percent. This would mean that the average number of appealed denied claims would be 87,300 ($873,000 \times 10\%$).
- The Division currently employs two managed care specialists and a claims manager who are responsible for overseeing and conducting the internal review of claims when providers seek reconsideration. The proposed legislation creates a new appeal right for the denial of crossover claims and an expedited hearing process.
- Due to the nature creating a completely new appeals process, the Division will require an increase in staffing. It is assumed that since 10 percent of denied claims will be appealed and the enhanced and the appeals process will be more labor intensive, the proposed legislation will necessitate an increase of relevant staff by at least 10 percent of current levels, which will lead to the following:
 - The Division will require 10 additional Associate Counsel positions at a recurring expense of \$1,099,580 [$(88,356 \text{ salary} + \$21,602 \text{ benefits}) \times 10 \text{ positions}$]; 10 additional Legal Assistant positions at a recurring expense of \$532,090 [$(39,690 \text{ salary} + \$13,519 \text{ benefits}) \times 10 \text{ positions}$]; and 4 additional Administrative Judges as a recurring expense of \$460,372 [$(\$92,760 \text{ salary} + \$22,333 \text{ benefits}) \times 4 \text{ positions}$]. This addition of staff will lead to an increase in recurring expenditures of \$2,092,042.
 - The expected increase in expenditures from additional staff will be matched at a 50/50 federal rate, meaning that \$1,046,021 ($\$2,092,042 \times 50\%$) will be state funded and \$1,046,021 ($\$2,092,042 \times 50\%$) will be federally funded.
 - According to information provided by the Division, it is expected that the electronic claims system will not be fully implemented until May 2023. Therefore, in order to be in compliance with the proposed legislation, the Division will have to mail notices for the denial of claims between October 2022 and May 2023. This would lead to a one-time cost of \$295,365 [$\{[(873,000 \text{ claim denials} / 12 \text{ months}) \times 7 \text{ months}] \times \$58 \text{ for first class letter size mail}\}$]. This would be at a 50/50 federal match, meaning that \$147,683 ($\$295,365 \times 50\%$) would be in state expenditures and \$147,683 ($\$295,365 \times 50\%$) would be in federal expenditures.
 - Once the proposed legislation takes effect in October 2022, Notice of Hearings would need to be mailed for each appeal claim. This would lead to an increase in expenditures of \$378,009 ($87,300 \times \$4.33 \text{ for certified mail}$) annually. This would be at a 50/50 federal match, meaning that \$189,005 ($\$378,009 \times 50\%$) would be in state expenditures and \$189,005 ($\$378,009 \times 50\%$) would be in federal expenditures.
 - The total fiscal impact created by the proposed legislation in FY22-23 would be \$3,285,709 ($\$1,903,000 + \$1,046,021 + \$147,683 + \$189,005$) in state expenditures and \$3,285,709 ($\$1,903,000 + \$1,046,021 + \$147,683 + \$189,005$) in federal expenditures.
 - The total fiscal impact created by the proposed legislation in FY23-24 and subsequent years would be \$1,235,026 ($\$1,046,021 + \$189,005$) in state expenditures and \$1,235,026 ($\$1,046,021 + \$189,005$) in federal expenditures.

IMPACT TO COMMERCE:

NOT SIGNIFICANT

Assumptions:

- The proposed legislation will lead to an increase of 39 TennCare jobs.
- The provisions of the proposed legislation will not result in any significant impact to commerce in Tennessee.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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